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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT TACOMA

13 STEPHEN KNIGHT LEWIS,  
14 Plaintiff,

15 v.

16 CITY OF LAKEWOOD *et al.*,  
17 Defendants.  
18

CASE NO. C08-5589FDB/JRC

REPORT AND  
RECOMMENDATION

Noted for OCTOBER 30, 2009

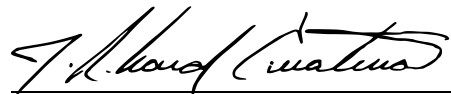
19 This 42 U.S.C. §1983 Civil Rights matter has been referred to the undersigned Magistrate  
20 Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrate Judge's  
21 Rules MJR 1, MJR 3, and MJR 4. On August 27, 2009, the court entered an order allowing the  
22 plaintiff the opportunity to submit additional briefing in opposition to a pending motion for  
23 summary judgment (Dkt. # 43). That order gave plaintiff until September 25, 2009, to submit  
24 evidence regarding his opposition to defendants' motion for summary judgment. Plaintiff has  
25 failed to file any additional briefing.  
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1 In their reply to plaintiff's opposition to summary judgment defendants argued that  
2 plaintiff had failed to support his assertions with admissible evidence as required by Fed. R. Civ.  
3 P. 56 (e) (Dkt. # 49, page 3). Defendants' position is correct. Plaintiff has been given the  
4 opportunity to cure the defects in his pleadings and he has failed to do so. The court now  
5 recommends all remaining claims be DISMISSED WITH PREJUDICE.  
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7 This dismissal would be based in part on the authority of Fed. R. Civ. P 41 (b), dismissal  
8 for failure to comply with a court order. The dismissal would also be based in part on Fed. R.  
9 Civ. P. 56 (e) as plaintiff has failed to oppose summary judgment with admissible evidence.

10 For the reasons stated in this Report and Recommendation the Court recommends the  
11 Motion for Summary Judgment be GRANTED. Pursuant to 28 U.S.C. § 636(b)(1) and Rule  
12 72(b) of the Fed. R. Civ. P., the parties shall have ten (10) days from service of this Report to file  
13 written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of  
14 those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating  
15 the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on  
16 October 30, 2009, as noted in the caption.  
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18 Dated this 7<sup>th</sup> day of October, 2009.  
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21 J. Richard Creatura  
22 United States Magistrate Judge  
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